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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

CHRIS DARRELL JOSEPH SAGE,

No. 1:20-CV-01985-MK

Petitioner,

**PETITIONER'S UNOPPOSED
MOTION TO DISMISS PETITION**

v.

WILLIAM W. LOTHROP,
Warden, FCI Phoenix,

Respondent.

Petitioner Chris Darrell Joseph Sage, through counsel, respectfully provides the following notice of voluntary withdrawal of his 28 U.S.C. § 2241 petition for a writ of habeas corpus filed in this case on November 16, 2020 (ECF no. 1), or, in the alternative, moves the court for an order dismissing that petition without prejudice. Petitioner has determined that jurisdictional limitations bar him from continuing to seek relief in the District of Oregon and wishes to pursue relief in the District of Arizona, where he is currently incarcerated. Counsel for respondent William W. Lothrop has indicated that respondent does not oppose the dismissal of this petition.

Fed. R. Civ. P. 41 (a)(1) permits plaintiffs (and by extension, habeas petitioners) to voluntarily withdraw an action without a court order by filing a notice of voluntary dismissal at any time before the opposing party serves an answer or moves for summary judgment. In this case, respondent has served a petition response addressing jurisdictional issues (ECF no. 9) but has not served a formal answer. Should the court construe this procedural posture as sufficient to permit petitioner to voluntarily withdraw his petition without a court order, petitioner hereby does so.

In the event that the court does not determine that a voluntary withdrawal under Fed. R. Civ. P. 41(a)(1) is permissible, petitioner moves the court for an order dismissing his habeas petition without prejudice under Fed. R. Civ. P. 41(a)(2). Petitioner again notes that respondent does not object to the dismissal of this petition. He further argues that dismissal of this action is proper because relief is still available to him in a different judicial district and respondent will suffer no cognizable harm or prejudice if this petition is dismissed. Accordingly, dismissal of this action is proper under the standard identified by Fed. R. Civ. P. 41(a)(2).

RESPECTFULLY SUBMITTED June 4, 2021.

/s/ Bear Wilner-Nugent

Bear Wilner-Nugent, OSB #044549

Attorney for Petitioner Chris Darrell Joseph Sage